

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Douglas & Jane Berg,
Petitioner-Appellants,

v.

Webster County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 13-94-0072
Parcel No. 0720204020

On October 18, 2013, the above-captioned appeal came on for consideration before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellants Douglas and Jane Berg were self-represented and requested a written consideration. Assistant County Attorney Cori Kuhn-Coleman represented the Webster County Board of Review. The Appeal Board having reviewed the record and being fully advised finds:

Findings of Fact

Douglas and Jane Berg are the owners of a residential, single-family property located at 1644 8 1/2 Avenue North, Fort Dodge, Iowa. The property is a one-story, frame residence built in 1946 with 916 square-feet of total living area and a full basement with 200 square feet of finish. The dwelling also has a 30 square-foot, open porch and a 200 square-foot, detached garage. According to the property record card, the home is listed is of average quality, Grade 4, and in above-normal condition. The site is 0.109 acres.

Bergs protested to the Board of Review regarding the 2013 assessment of \$58,410, which was allocated as \$6880 in land value and \$51,530 in improvement value. They claimed the property was assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2). Bergs

asserted the property should be assessed at \$45,000 which was what they purchased the property for in July 2012. The Board of Review denied their claim.

Bergs then appealed to this Board reasserting their claim.

On their appeal form, Bergs note the subject property had been on the market for 449 days with multiple price changes before it was purchased. They also stated the basement gets very wet and the furnace and windows are original. They further note the garage is wet, musty, and smells of mold. They claim these factors, along with the length of time that the property was on the market, justify a reduction in the assessment to the selling price, which they believe is the true market value. We note, the sales price alone does not establish fair market value, and the Bergs have provided no other evidence of the subject property's market value such as an appraisal or comparable property sales.

Conclusion of Law

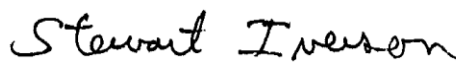
The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

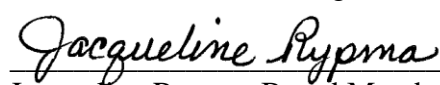
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. §441.21(1)(b). If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

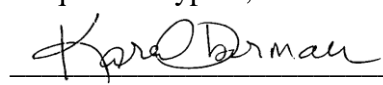
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Although the Bergs rely on the sales price of their property to establish market value, the price does not conclusively establish market value for assessment purposes. *Riley v. Board of Review*, 549 N.W.2d 289, 290 (Iowa 1996). The Bergs have not provided any additional evidence, such as an appraisal or comparable sales, to support their claim that the sales price should be the assessed value.

THE APPEAL BOARD ORDERS the assessment of Douglas & Jane Berg's property located at 1644 8 1/2 Avenue North, Fort Dodge, Iowa of \$58,410 as of January 1, 2013, set by the Webster County Board of Review is affirmed.

Dated this 18th day of November 2013.


Stewart Iverson, Presiding Officer


Jacqueline Rypma, Board Member


Karen Oberman, Board Member

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